

*What Every Member of the
Trade Community Should Know About:*

Gloves, Mittens & Mitts, Not Knitted or Crocheted under the HTSUS



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study of the classification of gloves, mittens and mitts. “Gloves, Mittens & Mitts, Not Knitted or Crocheted under the HTSUS” provides guidance regarding the classification of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, (Mint Annex), NW, Washington, D.C. 20229.

Michael T. Schmitz,
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Office of Regulations and Rulings

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INTRODUCTION

Gloves may be classified in five different tariff headings, depending on which outer shell material of the glove imparts the essential character. When the glove's outer shell material is uniform, e.g. all leather or all knit material, the choice of heading is relatively easy. As examples, gloves of plastic are classified under tariff heading 3926; if of rubber in heading 4015; if of leather in heading 4203; if of textile knitted construction in heading 6116; and if of a textile construction other than knit, in heading 6216. When the glove shell is composed of two or more materials an essential character determination must be made. Normally the palm side (fingertips to wrist) material will determine the essential character. This publication covers classifications in heading 6216. The following are definitions for terms used in the tariff and glove trade.

DEFINITIONS

Glove - a covering for the hand having separate sections or merely separate openings for each of the fingers and thumb and often extending part way up the arm and made of various materials either with or without a snap or button or other fastening at the wrist. It is used to protect the hand against cold, intense heat, irritation, superficial injury, contamination, or as an apparel accessory.

Mitten - a covering for the hand and wrist having a separate section for the thumb only and made in various designs and materials for warmth and protection.

Mitt - a woman's dress glove leaving the fingers uncovered, often extending to or above the elbow, and made of dressy material (as lace, net, silk). A baseball catcher's glove with heavy padding and a separate section only for the thumb: a first baseman's glove with a padded palm, thumb and one or two finger sections: a protective mitten used in punching bag practice: a device of cloth or similar material shaped to wear over the hand, i.e. dust mitt, wash mitt, oven mitt.

Cellular plastics - are plastics having many cells dispersed throughout their mass. A magnified cross- section of cellular plastics is similar to a sponge.

Clute pattern - style of glove made with six parts (a seamless one-piece palm, thumb and four fingers). The seams around the fingers are on the palm side of the glove which exposes them to increased wear.

Essential character - The factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods. **In the case of gloves made up of different components, (i.e. knit fabric, coated fabric, leather) the role of the palm side shell material is usually paramount. A palm side shell material which extends from the fingertips to the wrist will usually impart the essential character.**

Fourchette - the strip or shaped piece used for the sides of the fingers of a glove.

Gunn-cut pattern - style of glove made with four large parts (palm, back, thumb and fingers). The glove has a distinctive seam across the base of the middle and ring finger. The finger seams are on the backside which make it more durable glove.

HEADING 6216

Background

Chapter 62 of the Harmonized Tariff Schedule of the United States (HTSUSA) covers articles of apparel and clothing accessories which includes gloves. It is important to note, however, that chapter 62, Note 1 specifically states:

This chapter applies only to made up articles of any textile fabric other than wadding, excluding knitted or crocheted articles (other than those of heading 6212).

Heading 6216 of the Harmonized Tariff Schedule of the United States (HTSUS) provides for gloves, mittens and mitts. The Harmonized System Explanatory Notes indicate that heading 6216 “covers gloves, mittens and mitts of textile fabrics (including lace) **other than** knitted or crocheted fabric” without distinction between those for women or girls and those for men or boys. Accordingly, heading 6216 includes ordinary short gloves with separate fingers, mittens covering only part of the fingers, mitts with separation for the thumb only and gauntlets or other long gloves that may cover the forearm or even part of the upper arm.

The Explanatory Notes for 6216 **exclude**:

- (a) Loofah friction gloves, lined or not (**heading 46.02**).
- (b) Gloves, mittens and mitts, of paper, cellulose wadding or webs of cellulose fibers (**heading 48.18**).

Gloves, Mittens and Mitts: Impregnated, coated or covered with plastics or rubber

The tariff numbers 6216.00.05 through 6216.00.31 provide 18 possible ten digit classifications for gloves impregnated, coated or covered with plastics or rubber. Note that the expression “impregnated” includes the term “dipped.” In determining whether a glove is coated with plastics material, we look to the chapter 59 notes (2)(a) and (4) and the chapter 39 Explanatory Notes for plastic/textile combinations for guidance.

In general, to be classified as coated with plastic, the coating should be visible to the naked eye and in the case of gloves of composite materials, the coated textile portion must impart the **essential character**. Gloves partially coated with plastic materials

which form designs are not considered coated. Excluded from classification in 6216 altogether are gloves with a combination of **cellular plastics** or cellular rubber and textile fabric where the textile fabric is present merely for reinforcing purposes.

6216.00.05, HTSUS: Ice hockey gloves and field hockey gloves

Gloves advertised, marketed and promoted for roller blade or street hockey are excluded from this subheading.

6216.00.08, HTSUS: Other gloves, mittens & mitts, all the foregoing specially designed for use in sports, including ski & snowmobile gloves, mittens & mitts

In deciding whether an article is classifiable in a “designed for use” provision, one of the controlling factors is whether the article has particular features which adapt it for the stated purpose. In *Sport Industries, Inc. v. United States*, 65 Cust. Ct. 470, C.D. 4125 (1970), the court, in interpreting the term “designed for use,” under the Tariff Schedules of the United States, examined not only the features of the articles, but also the materials selected and the marketing, advertising and sale of the article. In essence, an importer must make a sufficient showing that the gloves are, in fact, specially designed for use in a particular sport.

Several court cases regarding the proper classification of sports gloves provide useful information regarding the term “specially designed for use.” In *American Astral Corp. v. United States*, 62 Cust. Ct. 563, C.D. 3827 (1969), the Customs Court held that certain gloves were properly classifiable as lawn tennis equipment because the evidence established that the gloves were specially designed for use in the game of tennis. At the time the Tariff Schedules of the United States included provisions for tennis equipment which provided for specially designed protective articles such as gloves. The court noted the glove’s distinguishing characteristics which set them apart from ordinary gloves worn as apparel. These features included (a) an absorbent terry cloth back; (b) a partially perforated lambskin palm designed to aid grip, provide protection, and to prevent perspiration by allowing air circulation; (c) fourchettes made from stretch material; (d) elasticized wrist for a snug fit and support (e) a button positioned to prevent interference to the player. Additionally, the court considered such factors as the nature of the importer's business, how the gloves were advertised in the trade, the types of stores where the gloves were sold, and that the gloves were sold only in single units and not in pairs. The court also noted that the fact that the gloves had other possible uses did not preclude their classification as sporting equipment.

6216.00.13 - 6216.00.21, HTSUS: Other: (other than . . . designed for use in sports . . .) Without fourchettes: Cut and sewn from pre-existing machine woven fabric that is impregnated, coated or covered with plastics or rubber

The majority of gloves classified under these subheadings are used for work related activities either in industry or at home. Typically the glove material is coated to enhance the gripping properties, provide added protection and/or make the surface more resistant to liquids. One common type is a clute pattern glove which is constructed using woven cotton fabric which is uniformly coated with PVC dots prior to cutting and sewing.

Gloves made with coated woven fabric **and** gloves made of composite materials in which the coated woven fabric portion imparts the essential character may be subject to textile fiber restraints where the weight of the fabric **under the coated portion equals or exceeds 50 percent of the coated material** (fabric + coating).

6216.00.24, HTSUS: Other: [other than cut and sewn from pre-existing machine-woven fabric . .]

Gloves without fourchettes which are coated with plastics or rubber **after** construction would be classified here. Once again the percentage by weight of coating is important to determine whether or not the item is subject to fiber restraints. This type of construction is not commonly seen.

6216.00.29, HTSUSA: Other: With fourchettes

Gloves with fourchettes which are either constructed of fabric coated with plastics or rubber **or** coated after the glove is assembled (not common) are classified in this subheading. Since gloves with fourchettes provide a better fit and are more expensive to construct, they are generally better quality dress and/or winter gloves. Very often the coating (normally plastic) will be found on the inner surface of woven shell fabric. On winter gloves it may be a thin (2-3mm) layer of foam bonded to the inner surface. Most gloves found in this subheading are subject to textile restraints.

6216.00.33 - 6216.00.90, HTSUS: Other: [other than impregnated, coated or covered with plastics or rubber]

The tariff numbers 6216.00.33 through 6216.00.90 are used for the balance of gloves which are not knit and which are not impregnated, coated or covered with plastics or rubber.

The subheadings for cotton gloves provide for hockey gloves, other sports gloves including ski and snowmobiling gloves, mittens, and mitts, and other gloves with and without fourchettes.

The subheadings for man-made fiber gloves mirror those found under the cotton subheadings. Additionally, there are statistical breakouts for gloves of man-made fibers containing 36 percent or more by weight of wool or fine animal hair. Note that **synthetic** suede leather gloves are classified under the subheading for gloves of man-

made fibers. Many gloves designed for use in the sports of golf and cycling have synthetic suede leather palm sides which will normally impart the essential character to the glove.

The last subheadings for gloves (6216.00.80 and 6216.00.90, HTSUS) are “**Other**” provisions. Subheading 6216.00.80 provides for of wool or fine animal hair. Subheading 6216.00.90 provides for all textile gloves which are not knit and which are not specifically provided for under heading 6216.

GLOVE MARKING REQUIREMENTS

Country of Origin

19 U.S.C. 1304(a); 19 CFR, Part 134 - Marking of Imported Articles and Containers

Unless excepted by law, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article.

When an article is excepted from marking, the container it is in shall be marked with the country of origin of the article unless the container is also excepted from marking.

In several rulings, Customs has held that bulk packages of work gloves (usually 1 dz. pairs to a polybag), which are given to employees, may be excepted from individual marking provided that the gloves reach the "ultimate purchaser" (normally an industrial plant) in outside containers (poly bags) properly marked with the origin of the gloves and the Customs Port Director is satisfied that the gloves will be used only in the manner described. Gloves that are not contained in a poly bag but are fastened only by a paper band which may easily become detached or ripped from the gloves, may not be excepted from individual marking, as ruled in HQ 734681, dated October 16, 1992. However, Customs has held that cloth work or garden gloves may be marked to indicate the country of origin by means of a heavy paper folder which securely fastens the gloves together, as long as the country of origin is shown in a legible and conspicuous manner. See Treasury Decision (T.D.) 75-222, dated September 4, 1975. Gloves may be marking with a hang tag instead of sewn-in labels or ink stamps, so long as the country of origin is on the front of the hand tag in reasonable proximity to the glove size, as ruled in HQ 731061, dated July 28, 1988.

19 CFR §134.46 Marking when name of country or locality other than country of origin appears.

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, **and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article**, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning. [bolding added]

Customs has determined that the following examples of articles marked with non-origin statements trigger the requirements of 19 CFR 134.46, as they may mislead or deceive the ultimate purchaser. "A product of ABC Corp., Chicago, Illinois," "Manufactured and Distributed by ABC, Inc., Denver, Colorado," "Manufactured by ABC Corp., California, U.S.A.," "Produced for ABC Corp., Scotch Plains, N.J.," "Designed in USA," "Made for XYZ Corp., California, USA," or "Distributed by ABC Inc., Colorado, USA." Customs has determined that statements such as "Printed in USA," or names of locations which are part of the design of an article do not trigger the requirements of 19 CFR 134.46.

19 CFR §134.47 Souvenirs and articles marked with trademarks or trade names.

When as part of a trademark or trade name or as part of a souvenir marking, the name of a location in the United States or "United States" or "America" appear, the article shall be legibly, conspicuously, and permanently marked to indicate the name of the country of origin of the article preceded by "Made in," "Product of," or other similar words, in close proximity or in some other conspicuous location.

Textile Fiber Identification Act Wool Products Labeling Act

In addition to the country of origin marking requirement all textile gloves must be marked as to fiber content. This information may be either on a sewn in label, a paper hang tag or on a folded over piece of cardboard normally stapled to the gloves. Note that plastics/rubber coated gloves which are made with a continuous film-forming polymeric composition that equals or exceeds 35 percent of the base fabric are **excluded from the act**.

The following information in English must be included:

- **Fiber content, by percentage in descending order by weight, using generic terms.**
- **The name of the country of origin of the goods.**

- **The name of the importer or distributor or his RN number or WPL number or registered trade name. The trade name must be registered with the U.S. Patent and Trademark Office and a copy of the registration furnished to the Federal Trade Commission (FTC). *NOTE:* Under the WPL Act the use of a trade name is not allowed unless the firm does business under that name.**

The FTC has issued new rules on marking of textile products under the Textile Fiber Products Identification Act (TFPIA), the Wool Products Labeling Act (WPLA) and the Fur Products Labeling Act (FPLA). The Federal Register notice of February 13, 1998 announced changes which went into effect on March 16, 1998 (the FR Notice may be found at the Government Printing Office Website at <http://www.access.gpo.gov>).

Some of the major changes are:

- (1) Allowing identification of fibers weighing less than 5 percent without having to state the function of those fibers.
- (2) Recognizing ISO-standard fiber names as well as the familiar FTC-approved generic terms for marking purposes.
- (3) Special allowances for new “hybrid” wool fibers such as cashgora hair.
- (4) Allowing fiber content to be stated on the reverse side of a label without a reference on the front of the label.

THE IMPORTER'S RESPONSIBILITIES

Since the enactment of the Customs Modernization Act in December 1993, the legal burden of correctly classifying merchandise has shifted from Customs to the importer. It is the importer's responsibility to provide an accurate description of the merchandise prior to importation and entry. He or she should obtain this information from the foreign supplier.

The accuracy of the information contained on invoices is an essential element of the structure of the many new and creative programs Customs has undertaken recently. These programs, including, but not limited to, automated entry processing and pre-importation review, may only provide their benefits to the trade community as a whole if the data gathered are correct and complete. This concern for invoice accuracy is not new, but, as we progress in automation, accuracy becomes indispensable.

Section 141.86 of the Customs Regulations concerns invoicing requirements. Subparagraph (a)(3) of the section specifically requires invoices have the following information:

A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers and symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed.

A “detailed description” is one which enables an import specialist to properly classify imported merchandise. Accordingly, the invoice description must indicate any information which has a direct bearing on the proper classification of the imported item and it is incumbent upon the importer of record to ensure that the detailed description is present on each invoice.

Importers do not have to provide information that is not necessary to classify a specific item. However, they are responsible for giving Customs the information that is needed.

If a product has already been imported and the importer has questions regarding the classification, he should seek advice from the commodity specialist team at the port of entry. **Prior to the importation of the merchandise, the importer may request a ruling on the classification of the product from the National Commodity Specialist Division in New York. A ruling request should include information on the precise composition of the merchandise and the exact manner in which it is worked, as well as a sample of the product.**

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, (Mint Annex), NW, Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>